REMARKS

This Amendment and the following remarks are intended to fully respond to the Final Office Action mailed December 26, 2007. In that Final Office Action, claims 1, 2, 10-14, 16, 18-20, 22-24, 26-28, 30-32, 36, 38-40, 42, 44-53, 55-58, 60, 62-66 and 68-70 were examined and all claims were rejected. More specifically, claims 1-2 were rejected under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter regarded as the invention. Claims 1, 2, 10-14, 16, 18-20, 22, 23, 26-28, 30-32, 36, 38-40, 42, 44-53, 55-58, 60, 62-66 and 68-70 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hargrove et al. (hereinafter "Hargrove," U.S. Pub. No. 2003/0037325) in view of Casement (U.S. Pub. No. 2004/0225664). Claim 24 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Hargrove, in view of Casement, in further view of Weisman et al. (hereinafter "Weisman," U.S. Pub. No. 2003/0028870).

In this Response, claims 1, 2, and 19 have been amended; pending claims 49-53, 55-58, 60, 62-66 and 68-70 have been cancelled; and no new claims have been added. Therefore, claims 1, 2, 10-14, 16, 18-20, 22-24, 26-28, 30-32, 36, 38-40, 42, and 44-48 remain present for examination.

35 U.S.C. § 112, ¶ 2

Claims 1 and 2 were rejected under 35 U.S.C. § 112, second paragraph, for failing to provide antecedent basis for "the computer" in line 6 and "the operation" in line 5. Claim 1 has been amended to provide such antecedent basis and is thus presented in patentable form. Claim 2, depending from claim 1, also complies with 35 U.S.C. § 112, second paragraph. Applicant thus respectfully requests the Examiner to withdraw the rejection of claims 1 and 2 under 35 U.S.C. § 112, second paragraph.

Rejections under 35 U.S.C. § 103(a) in view of Hargrove and Casement

Claims 1, 2, 10-14, 16, 18-20, 22, 23, 26-28, 30-32, 36, 38-40, 42, 44-53, 55-58, 60, 62-66 and 68-70 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hargrove in view of Casement.

Applicant respectfully traverses the § 103(a) rejections because the Examiner failed to state a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness under 35

U.S.C. § 103(a), the references must teach or suggest all of the claimed limitations to one of ordinary skill in the art at the time the invention was made. M.P.E.P §§ 2142, 2143.03; *In re Royka*, 490 F.2d 981, 985 (C.C.P.A. 1974); *In re Wilson*, 424 F.2d 1382, 1385 (C.C.P.A. 1970). Specifically, the references Hargrove and Casement fail to teach or suggest all of the claimed limitations; particularly, "packaging one of the two or more storage media in a distribution package, wherein the distribution package is associated with only one of the software products and is marked with an associated product key and branding information," as recited in claim 1.

Hargrove discloses a system and methods relating to "automatically" installing a correct software version where the operating systems and localized language requirements may differ from computer to computer. (Hargrove, Abstract). The Hargrove reference addresses the problem of installing a version of software compatible with a computer's operating system and localized language without requiring the user to prompt and direct the installation. The Hargrove reference does not teach or suggest incorporating a packaging limitation with customer distribution, including "packaging one of the two or more storage media in a distribution package, wherein the distribution package is associated with only one of the software products and is marked with an associated product key and branding information," as recited in claim 1.

The Examiner cites Hargrove paragraphs [0021] and [0025] for the proposition that Hargrove teaches "different versions are packaged separately"; however, neither these paragraphs nor the figures they support teach such a limitation. (Examiner's Detailed Action, p. 4). Rather, paragraph [0021] states, "[t]he system and methods described herein relate to automatically installing a correct software version onto a computer from a software distribution medium that stores multiple installable versions of the same software product (i.e. a multi-version software distribution medium)." (Hargrove, p. 2, ¶ [0021]). Paragraph [0021] fails to make any reference to packaging. Further, paragraph [0025] states, "FIG. 2 illustrates examples of various *types* of multi-version software distribution media . . . ." (Hargrove, p. 2, ¶ [0025]) (emphasis added). Indeed, Figure 2 illustrates different *types* of distribution media, including "application software installation data," "OS component installation data," and "device software installation data." These different types of distribution media, that encode installation data for software applications, operating systems, and devices, may very well be packaged separately. However, this does not meet the limitation of the present application that requires different versions of the *related type* of software to be packaged differently in order to provide "efficient

distribution of related software products . . . [where the] software developer need only develop one set of storage media for the software product, rather than create and inventory a separate and distinct storage media for each version of the software product." (Specification, p. 5, ll. 20-21, 25-27).

Casement fails to teach or suggest the above deficiencies of the Hargrove reference. Rather, Casement discloses a system and methods for "stag[ing] data from various sources and perform[ing] an automated series of steps on the data to assimilate it into a master SKU table and to make it useable for and available to other applications . . . ." (Casement, p. 1, ¶ [0008]). The Casement reference further utilizes "an abstraction layer to reconcile item identifiers between and amongst various data sources." (Id.) Casement addresses the problem of data management where an enterprise's data is generated from different sources or in different forms. (Casement, p. 1, ¶¶ [0005]-[0007]). Although Casement acknowledges that it is "desirable for each product in an enterprise's database to have a unique identifier" which is maintained in a SKU table (Casement, p. 1, ¶ [0007]), Casement does not teach or suggest incorporating a packaging limitation with customer distribution, including "packaging one of the two or more storage media in a distribution package, wherein the distribution package is associated with only one of the software products and is marked with an associated product key and branding information," as recited in claim 1.

In addition to independent claim 1, the independent claims 10 ("wherein the product key information is located on packaging, and wherein each different version of the software application is packaged in unique packaging"); 19 ("wherein each different software product is packaged in different packaging, and wherein the different product code and the different entitlement information is located on the different packaging"); 30 ("packaging at least one of the plurality of storage media in at least one of a plurality of different distribution packages, wherein each distribution package is associated with only one of the different versions of the software application and is marked with associated product key information and branding information"); and 42 ("wherein each version of the software application is packaged in different packaging, and wherein the different product key is located on the different packaging") recite similar packaging limitations and, for at least the reasons noted above, should be allowable over both the Hargrove and Casement references.

As the Hargrove and Casement references fail to teach or suggest each limitation recited in independent claims 1, 10, 19, 30, and 42, these claims are not rendered obvious under 35 U.S.C. § 103(a). Applicant respectfully requests that the Examiner allow these independent claims and those claims that depend from them, including claims 2, 11-14, 16, 18, 20, 22-23, 26-28, 31-32, 36, 38-40, and 44-48. Claims 49-70 have been cancelled.

Rejection under 35 U.S.C. § 103(a) in view of Hargrove, Casement, and Weisman

Claim 24 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Hargrove, in view of Casement, and further in view of Weisman.

Weisman discloses a method for downloading software via a network connection. (Weisman, p. 1, ¶ [0006]). The Weisman reference responds to problems involving error-prevention and time-efficiency in downloading. (Weisman, p. 1, ¶ [0008]). The Weisman reference does not teach or suggest incorporating a packaging limitation with customer distribution, including "wherein each different software product is packaged in different packaging, and wherein the different product code and the different entitlement information is located on the different packaging," as recited in claim 19. Weisman thus fails to supply the deficiencies of Hargrove and Casement.

As Hargrove and Casement, in further view of Weisman, fail to teach or suggest each limitation claimed in claim 24, it is not rendered obvious under 35 U.S.C. § 103(a). Thus, Applicant respectfully requests that the Examiner allow claim 24.

Conclusion

This Amendment is intended to supplement the Applicant's Response to the Final Office Action, mailed on December 26, 2007. It is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

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